



State of New Jersey

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January 13, 1984

Hon. Reginald Stanton, J.S.C.
Superior Court of New Jersey
Morris County Courthouse
Morristown, NJ 07960

Re: State of New Jersey, Department of
Environmental Protection v. Scientific
Chemical Procession, Inc.,
Docket No. C-1850-83E

Dear Judge Stanton:

Enclosed herewith please find copy of Motion for hearing in the above matter. As set forth in my supporting Affidavit, progress on cleanups of both the Newark and Carlstadt sites has been unsatisfactory.

Carlstadt Site -

During the fall of 1983, progress on cleanup of the Carlstadt site appeared to be moving at a reasonable pace. Personnel from S & W Waste, Inc. ("S & W") sampled each of the drums and hold tanks on site and submitted the samples for analysis. S & W was to perform chemical analyses necessary to characterize the materials and obtain approval for their disposal at a licensed facility. I am advised that many of the analyses are completed. However, the results have not been provided to the Department of Environmental Protection ("DEP"). Moreover, S & W has now refused to undertake the PCB analyses or any other aspect of the Carlstadt cleanup until a contract is executed with Inmar. (See letter of Harry Moscatello to Marvin Mahan dated November 14, 1983 and attached to Affidavit of David W. Reger as Exhibit "C"). Thus, at the present time, S & W is not performing any work on the Carlstadt cleanup.

During a recent telephone conversation, I requested that Mr. Egan forward me a copy of the executed Contract between S & W and Inmar, together with written authorization for S & W to proceed.

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To date, I have not received these papers.

Newark Site -

On October 7, 1983 a Contract was executed between Sigmund and Presto, partnership, and S & W for the handling of the Newark site cleanup. DEP personnel have discussed the cleanup with S & W personnel. They have also conducted a joint inspection of the site. However, S & W has advised that it will not begin work until it receives written authorization to do so.

In early December, I contacted Mr. Presto and requested that he authorize S & W to undertake the sampling and analysis part of the project. Mr. Presto has failed to provide same.

I am aware that Mr. Presto contacted numerous generators whose waste is presently situated at the Newark site requesting that they remove said materials. It is my understanding, based upon conversations with Mr. Presto, that many of the generators agreed to remove their waste. DEP personnel have advised me that removal of this waste could greatly simplify the cleanup. Accordingly, I requested that Mr. Presto immediately begin to make arrangements to move this aspect of the cleanup. Again, he has failed to take any action.

Manifests -

Both Mr. Egan on behalf of Inmar and S & W have advised that they will not execute manifests required for transporting the waste from the Carlstadt site to the disposal facility. They take the position that since they did not generate the waste, they should not be required to take this responsibility.

The DEP takes the position that individuals associated with SCP (Messrs. Presto, Sigmond, Case and/or Barnes) should sign the manifests since the hazardous wastes were brought to the site during the course of SCP's business activities. In the alternative, the property owner should sign the manifest since it is responsible for the hazardous wastes presently situated on its property. Moreover, Inmar has responsibility for these wastes because they were transported to the Carlstadt site while it leased the property to SCP.

Discussion -

Based upon the above circumstances, it is clear that both SCP cleanups are not properly moving forward because defendants herein have not made a good faith effort in this regard. Therefore, DEP respectfully requests that this Court set the matter down for hearing

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and thereafter impose a cleanup upon defendants.

In order to assure that said cleanups are not delayed, DEP requests that the Court require defendants to post performance bonds and/or establish escrow funds to support the cleanups if defendants fail to properly do so.

The papers submitted by the State in this matter make a clear showing that both the Carlstadt and Newark sites pose a substantial danger to the health, safety and welfare of New Jersey residents who live near the properties. Based upon prior orders of this Court, defendants have an obligation to take prompt and appropriate remedial action to abate this situation. Defendants have not taken such action. Accordingly, DEP seeks the aid of this Court to correct this situation.

Thank you for your attention to this matter.

Respectfully yours,

IRWIN I. KIMMELMAN
Attorney General of New Jersey

By David W. Reger
David W. Reger
Deputy Attorney General

jay

Enclosures (3)

cc All Counsel
Leif R. Sigmond
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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY
DOCKET NO. C-1852-83E

STATE OF NEW JERSEY, DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiffs,

v.

SCIENTIFIC CHEMICAL PROCESSING,
INC., a Corporation, et al.,

Defendants.

Civil Action

ORDER

This matter having come before the Court on motion by Irwin I. Kimmelman, Attorney General of New Jersey, attorney for plaintiff, State of New Jersey, Department of Environmental Protection, Deputy Attorney General David W. Reger appearing, and it appearing by Revised Order of this Court, dated June 16, 1983, that defendants were directed not to transfer or encumber their real property without leave of the Court, and it further appearing that the defendant, Dominick Presto, conveyed his interest in real property known as Lots 36 and 37B, Block 157, in the Borough of Lodi, Bergen County, New Jersey, after the aforesaid Order was entered, and the Court having considered the moving papers, the arguments of counsel, and for good cause shown,

IT IS, on this day of February, 1984,

ORDERED that:

- 1) The conveyance of Lots 36 and 37B, Block 157, in the Borough of Lodi, Bergen County, New Jersey, be and hereby is voided;
- 2) Copy of this Order shall be filed with the Clerk of Bergen County.

Reginald Stanton
J.S.C.

PAPERS CONSIDERED:

_____ Notice of Motion
_____ Movant's Affidavits
_____ Movant's Brief
_____ Answering Affidavits
_____ Answering Brief
_____ Cross-motion
_____ Movant's reply
_____ Other